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EXAMINER

JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,503

Applicant(s)

KELLOND ET AL.

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because Figures 1, 11-19 are illegible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 6 is objected to because of the following informalities: the dependent claim is self-referential. The examiner read the claim as being a dependent of Claim 1 and not Claim 6 as claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite and failing to point out and distinctly claim the subject matter which the applicant regards as the invention.

Regarding Claims 1, 8 and 15 the disclosure does not clearly define the phrase "template" when referencing either project or process templates. A template as claimed can comprise a plurality of components or items including, but not limited to: computer code, objects, classes, business rules, logic, system interfaces, document formatting guidelines or any combination thereof thereby making the term "template" as claimed vague and indefinite. The examiner read template to mean any available software component comprising any of the items discussed above.

Regarding Claims 1, 7, 8 and 15 the disclosure does not clearly define the phrase "module". The phrase module as claimed can be interpreted in a plurality of ways including but not limited to: a standardized system or construction that is designed for easy assembly or flexible use, a self-contained assembly of electronic components and circuitry, such as a stage in a computer, that is installed as a unit or a portion of a program that carries out a specific function and may be used alone or combined with

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other modules of the same program. The examiner read module to mean a component of a software program.

Regarding Claim 1(e) the disclosure does not clearly define the phrase "plugging" when referencing "plugging" the dynamic supply chain module into a supply chain. The phrase plugging as claimed could encompass a plurality of definitions including but not limited to: the act of providing a computer system (hardware and software) with electrical power or instantiating supply chain modules in computer program thereby making the term "plugging" as claimed vague and indefinite. The examiner read plugging to mean the inclusion of a dynamic supply chain module (component) into a software program.

Regarding Claim 15 the disclosure does not clearly define the phrase "system." A system as claimed could contain a plurality of elements and without further definition of the system elements the phrase as claimed vague and indefinite.

Further regarding Claim 15 the disclosure does not clearly define the phrase "logic." Logic has a plurality of meanings including logic conditions embodied in software or a mode of reasoning thereby making the term "logic" as claimed vague and indefinite. The examiner read logic to mean logic conditions embodied in software.

Claim Rejections - 35 USC § 101

3. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Regarding Claims 1-7, claims 1-7 only recite an abstract idea. The recited method for providing a dynamic supply chain module in a supply chain of a plurality of businesses does not apply, involve, or use the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. The claimed invention, as a whole, is

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not within the technological art as explained above claims 1-7 are deemed to be directed to non-statutory subject matter.

Software, programming, instructions or code not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in a computer. When such descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases.

Furthermore, software, programming, instructions or code not claimed as being computer executable are not statutory because they are not capable of causing functional change in a computer. In contrast, when a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer and the program, and the computer is capable of executing the program, allowing the program's functionality to be realized, the program will be statutory.

Regarding Claims 8-14 do not utilize the proper computer program product format and effectively recite descriptive material (software) per se. Claims 8-14 are therefore deemed to be directed to non-statutory subject matter where there is no indication that the proposed software is recorded on computer-readable medium and/or capable of execution by a computer. Examiner suggests that the applicant incorporate

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into Claims 8-14 language that the proposed software is recorded on computer-readable medium and capable of execution by a computer to overcome this rejection.

Regarding Claims 15-20, claims 15-20 do not utilize the proper computer program product format and effectively recite descriptive material (software) per se and are therefore deemed to be directed to non-statutory subject matter where there is no indication that the proposed software is recorded on computer-readable medium and/or capable of execution by a computer. Examiner suggests that the applicant incorporate into Claims 15-20 language that the proposed software is recorded on computer-readable medium and capable of execution by a computer to overcome this rejection.

Correction required. See MPEP § 2106 [R-2].

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being unpatentable by Microsoft's Site Server 3.0 Commerce Edition as evidenced by Master Card's International Clarus E-Procurement (white paper, August 1999), Microsoft Site Server Commerce Edition (product brochure, 1998), Implementing Pipeline Interfaces in

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Microsoft Site Server 3.0: Converting Existing COM Components (June 1999) and Marco Tabini Extending Site Server 3.0 Pipelines (article, Wrox Conferences, September 1999).

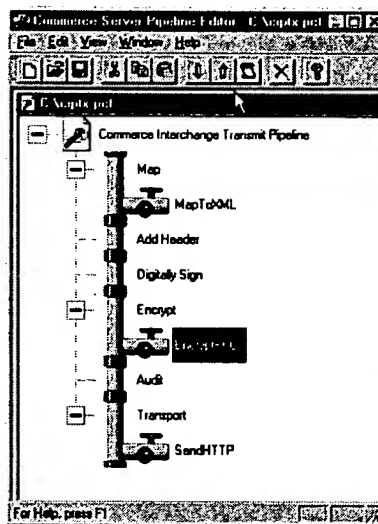
6. Regarding Claim 1 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses.

The Microsoft Site Server 3.0 Commerce Edition includes the Commerce Interchange Pipeline (CIP module) as the key piece of technology in delivering supplier integration solutions. A pipeline conceptually represents a business process decomposed into its essential processes, sub-processes, tasks and activities that are executed when the module is called as part of a dynamic supply chain (Master Card's International Clarus E-Procurement white paper; see at least Paragraph 1, Page 8; Figure 5, Page 14).

7. Per element 1(a) the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above and further comprising the step of selecting one or more project templates from a group of project templates to form a dynamic supply chain module, wherein each project template includes a plurality of process templates.

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The Microsoft Site Server 3.0 Commerce Edition was shipped with a plurality of project and process templates. Once such template was the Transmit pipeline as shown below in the Microsoft Pipeline Editor. The Transmit pipeline template included a plurality of process templates (stages: Map, Add Header, Digitally Sign, Encrypt, Audit and Transport). Further each stage offered a choice of components (Master Card's International Clarus E-Procurement white paper; see at least Figure 5, Page 14).



8. Per element 1(b) the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above and further comprising the steps of manipulating the process templates to tailor the dynamic supply chain module.

The Microsoft Site Server 3.0 Commerce Edition was shipped with a plurality of project and process templates and a template editor. Once such template was the Transmit pipeline as shown above in the Microsoft Pipeline Editor. A simple right-mouse

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click from within the pipeline editor adds a component at any stage thereby tailoring the pipeline module (Master Card's International Clarus E-Procurement white paper; see at least Figure 5, Page 14).

9. Per element 1(c) the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above and further comprising the step of the association of a module with a particular user. The Commerce Interchange Pipeline enables users, whether those users represent other systems, a human user (shopping cart for example) or other businesses, to exchange information regarding the particular business process embodied. Therefore it is inherent that each module, pipeline or pipeline stage, must be associated with a user or actor in the system.

10. Per element 1(d) the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above and further comprising the step of choosing services, which acquire information from the user utilizing a network to further, tailor the dynamic supply chain module.

Microsoft Site Server 3.0 Commerce Edition further teaches that pipeline components are commonly developed utilizing Microsoft Common Object Model (COM) technology. The Microsoft COM technology provides a framework for integrating

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modules (components). This framework supports interoperability and reusability of networked modules (distributed objects) thereby enabling businesses to build systems by assembling reusable modules from different vendors, which communicate, via COM. Further COM provides a range of services for component interaction that the user can choose (utilize) as necessary in acquiring information from users on the network (Implementing Pipeline Interfaces in Microsoft Site Server 3.0: Converting Existing COM Components; see at least Paragraphs 1-3, Page 1).

11. Per element 1(e) the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above and further comprising of the step of plugging the tailored dynamic supply chain module into a supply chain system as evidenced by the TransmitViaCIP module utilized as part of the Master Card electronic procurement solution (Master Card's International Clarus E-Procurement white paper; Page 14).

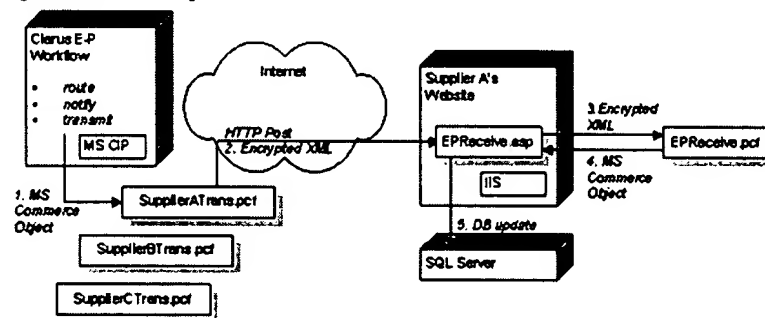
12. Regarding Claims 8 and 15, claims 8 and 15 recite similar limitations to Claim 1 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 1.

13. Regarding Claim 3 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain

module in a supply chain of a plurality of businesses wherein the use of the network includes the Internet (Web-based) as evidenced by the Master Card's International Clarus E-Procurement application (e-procurement solution; Master Card's International Clarus E-Procurement white paper; see at least Page 1, Paragraph 4; Figure 4, Page 13; Figure 7, Page 19).

Microsoft Site Server 3.0 Commerce Edition further teaches that the product was built on Internet technologies including but not limited to Internet Information Server (IIS), Hyper Text Transport Protocol (HTTP), and eXtended Markup Language (XML) as shown below (Master Card's International Clarus E-Procurement white paper; Page 1, Paragraph 4).

Figure 4. Data Exchange Via CIP



14. Regarding Claims 10 and 17, claims 10 and 17 recite similar limitations to Claim 3 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 3.

15. Regarding Claim 4 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain

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module in a supply chain of a plurality of businesses as discussed above and further comprising selecting a plurality of users to interface with the dynamic supply chain module as evidenced in the Master Card's International Clarus E-Procurement implementation plan which called for the electronic procurement application to be deployed initially within a small pilot group, with incremental rollout to the entire user community (Master Card's International Clarus E-Procurement white paper; see at least Paragraph 5, Page 5).

16. Regarding Claims 11 and 18, claims 11 and 18 recite similar limitations to Claim 4 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 4.

17. Regarding Claim 5 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above wherein the project template allows the business to engage activities utilizing the network wherein the activities include a plurality of steps.

Microsoft Site Server 3.0 Commerce Edition further teaches that a pipeline conceptually represents a business process decomposed into its essential processes, sub-processes, tasks and activities that are executed when the module is called as part of a dynamic supply chain as discussed above. Microsoft Site Server 3.0 Commerce

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Edition teaches that product was built on network (Internet) technologies as discussed above.

18. Regarding Claims 12 and 19, claims 12 and 19 recite similar limitations to Claim 5 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 5.

19. Regarding Claim 6 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above wherein the completion of the steps are tracked in a document (logs). The Microsoft Site Server 3.0 Commerce Edition teaches a plurality of means for recording, tracking, reporting and analyzing the processes and activities encompassed in the dynamic supply chain. Specific technologies for acting on logs or similar transaction information include but are not limited to: InetMonitor, NT Performance Monitor, and Microsoft Transaction Server.

20. Regarding Claims 13 and 20, claims 13 and 20 recite similar limitations to Claim 6 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 6.

21. Regarding Claim 7 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain

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module in a supply chain of a plurality of businesses as discussed above wherein the dynamic supply chain module is used to update process components of the supply chain.

The Microsoft Site Server 3.0 Commerce Edition further teaches that Commerce Interchange Pipeline enables users to exchange information regarding the particular business process embodied. One of the information exchanges core purposes in the updating (modification) of the systems, processes and their related data as a critical element for facilitation of the dynamic supply chain (Master Card's International Clarus E-Procurement white paper; see at least Paragraph 1, Page 8).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 2, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft's Site Server 3.0 Commerce Edition as evidenced by Master Card's International Clarus E-Procurement (white paper, August 1999), Microsoft Site Server Commerce Edition (product brochure, 1998), Implementing Pipeline Interfaces in Microsoft Site Server 3.0: Converting Existing COM Components (June 1999) and Marco Tabini Extending Site Server 3.0 Pipelines (article, Wrox Conferences, September 1999), as applied to Claims 1, 8 and 15 above, in view of Paul Korzeniowski

et al. (Trading Exchanges Have the 'Big Mo,' But Users Should Proceed with Caution, SupplyChainBrain.com, June 2000).

24. Regarding Claim 2 the Microsoft Site Server 3.0 Commerce Edition teaches a method, computer program product and system for providing a dynamic supply chain module in a supply chain of a plurality of businesses as discussed above.

Microsoft Site Server 3.0 Commerce Edition does not expressly state providing the dynamic supply chain wherein the businesses are apparel businesses.

Korzeniowski et al. teaches providing the dynamic supply chain wherein the businesses are apparel businesses.

Korzeniowski et al. teaches the use of trade exchanges (market wide supply chains), such as i2's SoftGoodsMatrix.com Business-to-Business marketplace for the retail and apparel industries, utilized for example by the VF Corporation which will be connecting to its key suppliers (Paragraphs 5-8, Page 6). Korzeniowski et al. further teaches trade exchanges as the hottest trend in supply chain management (Paragraph 1, Page 1) enabling the participating businesses to gain a competitive advantage (Paragraph 3, Page 4).

It would have been obvious to one skilled in the art at the time of the invention to leverage Microsoft Site Server 3.0 Commerce Edition to provide the dynamic supply chain modules for a dynamic supply chain in the apparel industry in view of the

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teachings of Korzeniowski et al. in order to reap the benefits of increased competitive advantage to be gained by transforming key business processes (Paragraph 3, Page 4).

25. Regarding Claims 9 and 16, claims 9 and 16 recite similar limitations to Claim 2 and are therefore rejected using the same art and rationale as applied in the rejection of Claim 2.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Notani et al. (U.S. Patent 6,397,191) teaches an object-oriented workflow for multi-enterprise collaboration where the workflow comprises objects associated with activities to be performed within the workflow.

- Lehmann et al. (U.S. Patent 5,737,727) teaches a process management system and method for graphically presenting a process further consisting of other sub-processes, work elements or tasks to be performed as part of the process.

- Lynn et al. (U.S. Patent 6,606,740) teaches a workflow processing framework providing common objects and business process for a workflow management system.

- Barr et al (U.S. Patent 5,182,705) teaches a computerized method and process for managing work.

- Microsoft Pipeline - David Blinn interview with DowJones Online teaches the use of Microsoft Site Server 3.0 Commerce Edition and in particular its associated

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Commerce Interchange Pipeline functionality as a means for providing dynamic supply chain modules.

- Microsoft Site Server 3.0 – Product Brochure (December 1999) discloses the latest date the Microsoft Site Server 3.0 and its associated Commerce Interchange Pipeline functionality was available.

- World Wide Retail Exchange – Overview teaches the application of supply chain management tools being leveraged by the retail industry as early as March 2000.

- Delivering 24/7 Solutions for Members of the World Wide Retail Exchange
an i2 Technologies, Inc. supply chain management tools being leveraged by the retail industry.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (703) 305-0587. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJ
10/7/2004

Susanna Diaz
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